

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:08-cr-175

- vs -

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

JEREMY E. LEWIS,

Defendant.

:

**ORDER REGARDING PROPOSED INDEPENDENT ACTION IN
EQUITY**

This case is before the Court on Defendant Lewis's "Motion to Amend Rule 60(b)(4) Due Process Violation Motion and Have the Motion Alternatively Brought as a Rule 60(d) Independent Action in Equity in its Characterization" (ECF No. 236).

If Mr. Lewis truly wishes to file an "independent" action under Fed. R. Civ. P. 60(d), then he must in fact do just that: File a new lawsuit seeking relief under Fed. R. Civ. P. 60(d), either with payment of a filing fee or an application for leave to proceed *in forma pauperis*. He cites no authority, and none is known to this Court, for bringing an "independent" Rule 60(d) action "inside" an already existing case.

The Motion is denied without prejudice to its refiling as an independent action.

February 29, 2016.

s/ *Michael R. Merz*
United States Magistrate Judge